P 760-98

G. R. S. IX-5]

Previous references.

1897-98
~~191~~ .
(2-R)

File No. 87-97

Serial Nos. 1-7

Later references.

GENERAL AND REVENUE SECRETARIAT.

Serial Nos. 1-7

~~Part~~ B for Feb 1899

SUBJECT.

Dispute regarding the right of way in Kempa
sagara village in Kunigal in S. no 1 of Kempa
Hanuma Gowda's holding.

W D 1250—GPB—30,000 - 28-1-19

(1) In time

(2) Stamp sufficient

3) Appeal against the Deputy Commissioner's Order directing that the reserved path way leading from the village site to the general lands through the petitioner's land C-101 should be kept free and that the obstruction by the petitioner should be put a stop to

The petitioner has produced a sketch which shows that the shortest way from the village site to the general lands lies through Survey No 1. But the petitioner contends

P.T.O

that the manual ~~road~~ paths
are those marked (ed, & 29).
which pass through the
Lands of Pet^r's cousin
(& enemy) Kapani. These
last are extremely uncertain
~~The Dg Com^r's order~~
and there is no reason why
the existence of these is
incompatible with the
existence of the ~~through~~ passing
~~through~~ Pet^r's Sho /
The Dg Com^r's order states
that the pathway in question
existed even before the
Survey settlement

Sub^d & Pt^d Committee

15/1/98

Rd 6.30pm
15-1-98 J

Has this been
marked on the
index map?
The Dg Com^r does
not state any
facts bearing on
the Tribunal. Can
be relevant to need

16/1/98

17/1/98

17/1/98

Rd 16/1/98

16/1/98

B: Fdc

Before the Government of Mysore.

~~Appeal~~ Petn No. 755 of 1897-98.

~~Appellant.~~ Petr Vs. ~~Respondent.~~

Patel Ramakrishnamma Gauda
of Nidaiahalli, Kunigal Tk

3-10-98.

Adjd to 10th October

Appellant's application adjourned
to 5th Dec.

10/10/98

Issue.
Vide order
on P. F. S.

9/11/98

Before the Government of Mysore.

Petn
~~Appeal~~ No. 785 of 1897-98

Petitioner.
~~Appellant.~~ Vs. ~~Respondent.~~

Patil Kenpa Hanamegauda
of Nittanahalli
Kunigal Taluk

Subject :- Dispute regarding a right of way in
Kempapapura
S. No. 1 of the ~~same~~ village in the holding of the Petitioner.
Sec^n or Rule — vide Sec^n 59 of the Record of Rights Act & Rule XVII
Petn to the Dy Comr^r
Sh^d be Summoned
9941
Dem
Nothing to see
pass & g Hearing Regret.
28/9/98
28/9/98
Dy Comr^r
Asst Comr^r
28/9/98
Appt absent
Reply to para 5 of the
Objections filed by the
Petitioner
13/2/99
13.2.99

Collector's

(1) Tuticorin Sharp office LR 87-97-1

(2) Memo of appeal against order dt 17-8-97 and signed by the Extra Asst Comr Tuticorin referring to the Cross-appeal Petition which is not forwarded by the Petr.

KK
22-9-97

Letter

Petr shd produce the Asst Comr's order referred to in the appeal order.

24/9/97

Encl in petn

KK
26/9/97

25-9-97

1) In time
2) Stamps sufft
3) appeal against Asst Comr's order directing that the manai path way leading from the village site to the Sonai lands through petr's Land (No 1 Should be kept free and that the obstruction by petr shd be put a stop to
4) Not a counter case

Petr has produced a sketch which shows that the shortest way from the Village site to the Sonai lands is through Petr's land (No 1) But petr contends

1897

(1)

No. 785

Name of Petitioner Kanisa Hamme Pandia-Patel

Village Kilathakalli

Taluk Kunigal

District Tumkur

Date of Arzi 15-9-'97

Date of Receipt 16-9-'97

Date of Disposal

No. of Enclosure 3

ABSTRACT.

This is an appeal against the order of the Extra Asst Comr Tumkur dt 17-8-97 relating to a passage leading to the Sonai lands of Kempa Sagara in S. No 1 belonging to the petr

[A reference to the accompanying sketch of Kempasagara, Kunigal taluk, is necessary]

States that lands S. Nos 4, 20, 18, 17 are the Sonai

Jounal lands; that there
are two roads,- one on the
west (A) and the other on the
South (B) — leading to the said
Jounals;

(a) that the road A began in
the S.Nos 139 and passed through
the Nos 138, 137 & 6; that one
Kapani, the owner of S.No 139,
once obstructed this road on
which complaints were made
by Kempa and others of Kalnaikkanahalli
on 22-9-87 and 12-8-88;

(b) that thereupon the spot
was inspected in 1889 by the
Sheristadar and the Amildar; that
the latter being convinced of
the existence of the road from time
immemorial, issued a notice directing him
to ~~the~~ Kapani on 7-6-92 to
allow free passage thro. the said
Nos as each of them contained
Kharab portions in them;

(c) that the said Nos, viz 138, 137 & 6
were in course of time obtained
by darkhast by the relatives
of the said Kapani,- although
in the haraj-istihar (Sale-notice)
a clause appeared to the effect
that the mamool road should
not

not be interfered with;

2(a) that the 2nd road B passes through the S. Nos 31 (the said Kapani's), 28 (the pet's) and 29 (a top), that the pet^r had no objection whatever to let the road pass thro. his No 28, but that it was the said Kapani that has objected to it;

(b) that during summer cattle used to drink water in the Kattai marked C in S.No 32, has to thro the road B and rest in the shade in S.No 29;

(c) that for the use of such a road, the said Kapani and his relatives, who had by this time occupied all the Nos about the road A and therefore wished to close it for the public, applied on 25.10.91;

3 that, in spite of the existence of the aforesaid roads A & B, the Amildar recently marked out the road marked D in S.No belonging

belonging to the petr, for the
simple reason that there exists
a foot-path in the said No
leading to Hebbalali as shown
in the sketch; that although
this arrangement of the
Amildar was made with a
view to cause loss to the petr,
yet it was approved by the
Dfaumr which, in the opinion
of the petr, was bad;

4. that the present Amildar, Shamarao,
who, after examination, was
convinced of the utility of the
roads, ~~ordered~~, reported to the Extra Asstt Commr,
minding the objection of Kapani
~~to~~ regarding the running of the road
through his No 31, that the required
portion of land should be acquired
by payment of compensation —
there being 2 guntas of kharab in S.No 31
and 46 in S.No 28;

5 that the petr has in no
way interfered with the footpath
leading to Hebbalali, nor has he
~~interfered~~ with the road marked out
by the Govt Authorities;

6 that ~~while~~ it was the
said Kapani who, ~~in~~ with

an

an intention of causing
loss to the petr caused the
road A to be blocked up
and then objected to keep a portion of his
land S. No 81 open for the
passage of cattle through
the road B; that as the
petr has been guilty
all through that it
was wrong of the Asstt
Commr to have ordered
that a notice should be
issued to the petr asking
him to show cause within
20 days in the face of
the records made by the
Amildars (Krishna Rao and
Shama Rao) as well as
of the mahajan of the
villagers &c--

& that the man
who was the cause of
all this trouble and loss
to the petr by suggesting
the road under dispute,
was his cousin (accused)
Kapani.

Prays that the
following

following records may be sent for and examined; that after such examination the old roads A + B be opened for the passage of cattle in preference to the new road D marked in S. No 1; that the Asst Comr's Order No 69, 87-8-97 may be set aside; and that necessary orders may be immediately issued to the Authorities concerned in order that no further action may be taken on the strength of the Asst Comr's said order while this petn is pending in this Office.

Records to be called for:-

1 Petn of Chikka Honna, Kempa Re of Kalmaddina halli, dy 22-9-87.
2 — do: do: — dy 12-10-'88
3 — Villagers' Mahazar, dy 23-5-'89
4 Amildar Krishna Rao's Notice to Karani, dy 7-6-92.
5 Petn of the Villagers to the Taluk dy 25-10-'91
6 Jakaan Jabita No 8 sent by Shanabhog to the Asst Comr
7 Darkhast + Sale-notice of the Nos 138, 137 + 6

Order appealed against

No 69, d 17-8-'97 regard-
-ing the new road D in S.No-1,
leading to the Govt lands
of Kempasagara.

The D/Comm= directs
that this road should be
left free for the public (ಸರ್ವ
ಸಾಧಾರಣ ಉಪಯೋಗಕ್ಕೆ) and that
a notice should therefore be
served on the takaradar
giving him 20 days' time.
If the takaradar should
fail to evacuate within
that time you (Amildar)
or any of your subordinates
should see that the road
is left free."

H.M. Seshadriengar
Extra Asst Comm=

Sne.

1. Order appealed against.
No 69, d 17-8-'97
2. Touch-Notice.
3. Sketch showing Kempasagara
-lands.

21/9/97

Court Fee

Court Fee

Court Fee

Presented with
Pet. No. 124
16.9.97

Book-Stamp affixed
16.9.97

16.9.97

25 SEP. 07

[illegible]

B [illegible]

[illegible] 889 [illegible] 23 [illegible]

[illegible]

[illegible]

[illegible] 39 [illegible]

[illegible] 92 [illegible]

[illegible] 13 [illegible] 13 [illegible]

[illegible] 37 [illegible] 2-24 [illegible]

[illegible]

C [illegible] 39 [illegible]

[illegible] 38 [illegible]

[illegible]

[illegible] 37 [illegible]

[illegible] 6 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

2 a [illegible] 31 [illegible]

[illegible] 28 [illegible]

[illegible] 23 [illegible]

[illegible]

[illegible] 28 [illegible]

[illegible] 31 [illegible]

[illegible]

13 ಪಶ್ನೆ 32 ಗಳಿಗೆ ಉತ್ತರ- ಸಾಮಾನ್ಯ ಪ್ರಕರಣದಲ್ಲಿ

ಸಂಭವಿಸಿರುವುದು- ಮೊದಲ ಪ್ರಕರಣದಲ್ಲಿ

ಸಂಭವಿಸಿರುವುದು ಪಶ್ನೆ 29 ಗಳಿಗೆ ಉತ್ತರ

ಸಂಭವಿಸಿರುವುದು

14 ಪಶ್ನೆ ಸಂಖ್ಯೆ 30 ಗಳಿಗೆ ಉತ್ತರ ಸಂಭವಿಸಿರುವುದು

ಸಂಭವಿಸಿರುವುದು

15 ಪಶ್ನೆ 31 ಗಳಿಗೆ ಉತ್ತರ ಸಂಭವಿಸಿರುವುದು

ಸಂಭವಿಸಿರುವುದು

16 ಪಶ್ನೆ 32 ಗಳಿಗೆ ಉತ್ತರ- ಸಾಮಾನ್ಯ ಪ್ರಕರಣದಲ್ಲಿ

ಸಂಭವಿಸಿರುವುದು- ಮೊದಲ ಪ್ರಕರಣದಲ್ಲಿ

ಸಂಭವಿಸಿರುವುದು ಪಶ್ನೆ 29 ಗಳಿಗೆ ಉತ್ತರ

ಸಂಭವಿಸಿರುವುದು

17 ಪಶ್ನೆ ಸಂಖ್ಯೆ 30 ಗಳಿಗೆ ಉತ್ತರ ಸಂಭವಿಸಿರುವುದು

ಸಂಭವಿಸಿರುವುದು

18 ಪಶ್ನೆ 31 ಗಳಿಗೆ ಉತ್ತರ ಸಂಭವಿಸಿರುವುದು

ಸಂಭವಿಸಿರುವುದು

7

3 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

1 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

5/17-8 [illegible]

[illegible] 24-8-97 [illegible]

1 [illegible] 21-8-97 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

1 [illegible] 25/2

[illegible]

1 [illegible] 25/37

[illegible]

1 [illegible] 25/8

[illegible]

1 [illegible] 25/1

[illegible]

Kanchanpur.
Dt. 20-12-97

No. 1665

To,
The Secretary,
Kanchanpur Municipality,
Kanchanpur.

Sub: Application for the Trade License.

Sir,

With reference to the above subject, I would like to inform you that I have started a new business of Tailoring in the name of "Sharma Tailors" at Ward No. 5, Kanchanpur. I have already completed all the formalities required for obtaining the trade license.

I, therefore, request you to kindly issue the trade license in my favour at the earliest.

Thanking you,

Yours faithfully,

(Ramesh Sharma)
Ward No. 5, Kanchanpur
Mobile: 9852-456789

Enclosures:
1. Citizenship certificate copy
2. Passport size photograph
3. Rent agreement copy

Subd
C/ 2 R. Stamp received
(under speed post) -
dated 19-6-98

MG
6/1/98

Put up pf

MG 6/1/98

L.R. 87-97-2

Subd
6/1/98 MG

1895

No. 685

Name of Petitioner Kempa Hanmanthappa

Village Nilattanahally

Taluk Kunigal

District Tumkur

Date of Arzi 10-12-97

Date of Receipt 20-12-97

Date of Disposal

No. of Enclosure 4

ABSTRACT

With reference to your endorsement No. 735 dated 25-9-97 calling for a copy of the Sheristadar's order recorded in his petition the petitioner begs to submit the Sheristadar's endorsement No. 1125 19-6-97 with the prayer that he might be informed of the state of hearing the case that the peons might be sent to him from the taluk that he could personally explain matters on the date of hearing and that the delivery of the copy of the Sheristadar's order above

Reference to it was unnecessarily delayed —

Translation of Dy Commrs order No: 1105 dated 17-6-97.

———— o ————

"Khatedar of Survey No: 1 should be directed to keep the path free for passage from Kempa-nagara village to Medihalli as had been in use even prior to Survey Settlement and the Khatedar's move-ments, ~~marked~~ as regards giving effect to the order, awaited. The villagers should be asked to fence both the sides of the passage in order to prevent cattle from trespassing & damaging the Khatedar's crop as they pass to Survey Nos: 3-4-17-18 & 20 which are set apart for grazing purpose. The two paths leading from ~~the~~ Kempa-nagara Settlement to Kempanagara as well as the passage in Survey No 140 by the side of the village should likewise be left open & the Khatedars of those Nos: informed not to bring those plots under the fencing —"

CR
4/1/98

L.R. 87-97-4

(General) Serial No. 30[illegible]

(3)

189[illegible]

REVENUE DEPARTMENT
214
JUL 11 1898
Ref 11
DEWAN'S OFFICE

From The Deputy Commr
Tumkur District.

To The Secretary to the
Govt of Mysore Revl
Department
Bangalore

Dated 7th July 1898.

Despatched 9th July 1898.

Received

Enclosures No. 2 Petitions

General No. 31.
No.

His official memorandum dated 24th January 1898.

Reporting on the petitions of Rangappa Hanumappa Gowda, Patel of Kuttar & Kuttihalli in the Tumkur Taluk

The report is full.
As regards the question whether revenue officers should decide claims to right of way such as this, the way is shown on the village map. The Survey Supt was requested to give his opinion in case the final opinion has not yet been received.

Sd/ [illegible] C.E.S.
15/7/98.

Recd 7.30 pm
15/7/98
143

x Same rec'd 16th C'r
Sd/ [illegible] Pt C'r
2/9/98

9682
Sd/ [illegible]

Sd/ [illegible]

Vetted
15/7/98

Petn
11.7.98

Report
Sd/
13/7/98
13/7/98

Central Jail Press, Bangalore.—6-3-97.—10,002.

No 31 Deputy Commissioner's office
Re: 2 Interpleas Coastal District

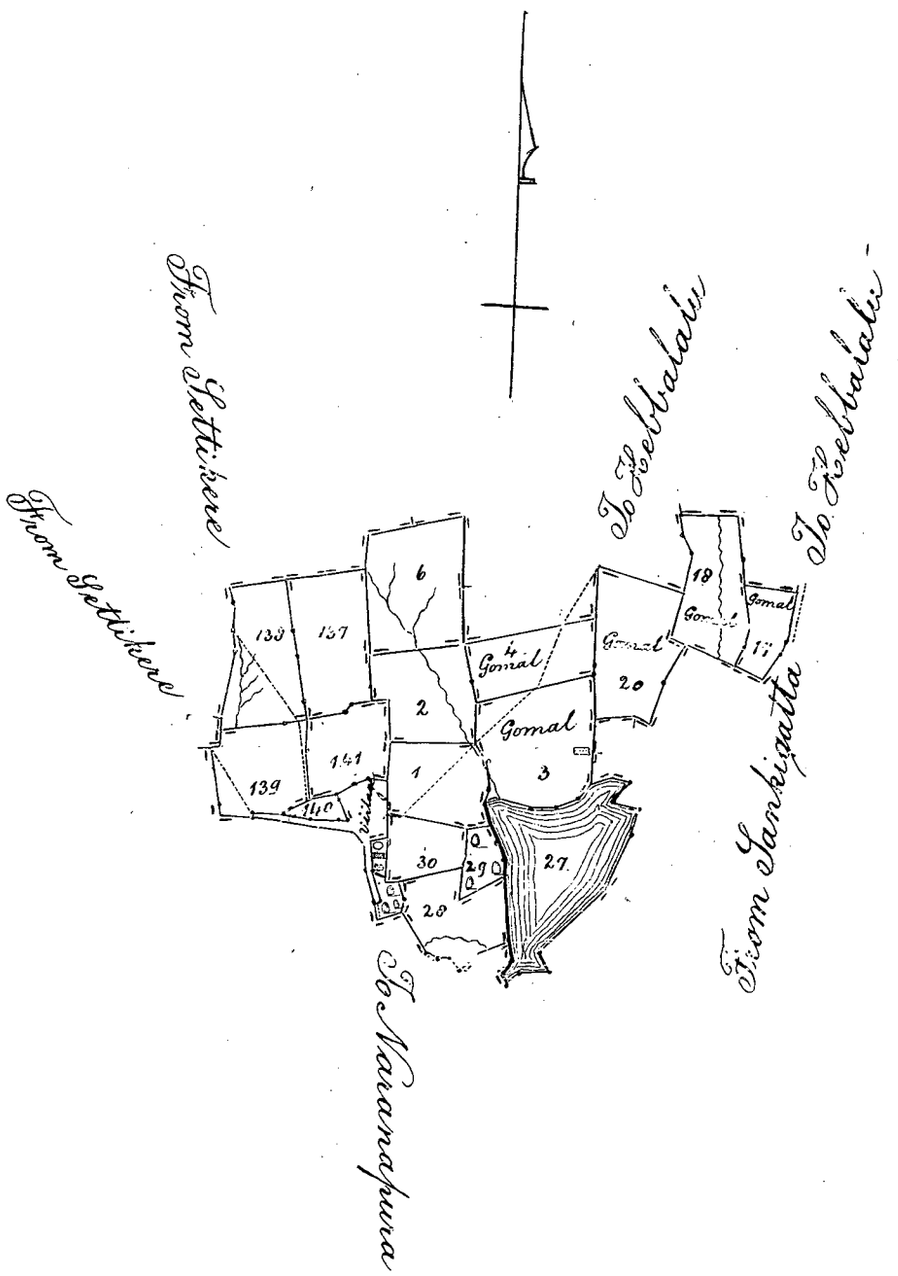
Lae, Morobe, 7th July 1951.

The Secretary to the Government
of Papua, New Guinea and Territories Department.

Sir

With reference to your Official Memorandum No Pat 899 dated 24th January 1951, forwarding for report the petitions of Kenapa Hamunegowa, Paiet of Weka-tawa held in the Kunigal District on appeal against two orders directing that the Inamui Pathway leading from Kenapanagowa village to the Gonul land through Petitioner's land Lemongo should be kept open for public use. I have the honour to state as follows:-

2. Petitioner is the Khaletar along with one Pate Hamunegowa, of Lemongo No: 1 of Kenapanagowa Apahara, which measures 9 rods and is opposed at No: 7-8 on the marginal sketch (Extract from village map, Papers No: 24 in the file) shows the position of the members with reference to Gonul lands Nos: 3, 4, 20,



18 acres 1½ attached to the village. The path from Kempavagara to Hebbalalu runs right across No 1. It is marked on the village map by a single dotted line. Seven guntas of land are deducted as Kharab from the area of No 1 on account of this path as well as a small hulla at its north Eastern extremity. The single dotted line denoting this path on Survey village Maps, is, I understand, assumed by the Survey Department to represent a mean breadth of 8¼ feet.

3. The question of a path for the use of the village cattle on their way to Grass Lands Nos: 3, 4, 20, 15 and 1 has for several years been the subject of dispute between the village and the holders of land through which such path lays. The Vernacular Records herewith forwarded will show that so far back as 1857, a complaint was made to the effect that the path through survey No 139 was obstructed and it was decided by the Guildars that the path adopted on the Survey Map should not be interfered with. The question came up again in 1871 and 1894, by which time Nos 138, 137 and 6 through which the path would have passed had been taken up on occupancy tenure, owing to which the difficulty of prescribing a path for the use of the village cattle was increased. After discussion with the parties concerned, three Guildars of the day (not the present holders of Survey Nos: (Mamlatdar and Surveyor's Petitioner's Creation) have agreed to allow a path of about 40 feet in their land for the village cattle to

to pass on to the formal lands. In other words, the path marked on the village map, with the addition of perhaps 3/4 ths of a foot to its breadth, was to be kept open for public use. The statement of these men was reduced to writing on 14th October 1894 and recorded in em Paper no: 25/23 on the file. The villagers also agreed to hedge in the said path on both sides so that there might be no interference with the crops raised on the land.

4. This settlement lasted only for a short time, for in February 1895, the villagers complained that the hedges they had planted had been removed by the Khatedars of No 1, who in return complained that their crops had been destroyed owing to the defective construction of the hedges. A long time elapsed in enquiring into these complaints and with the change of Khatedars in the meantime, the proposals of one party or another were discouraged

At last in June 1897, the dispute found
a place in the Jaccacondi Lakeraa Dakota,
when an alternative proposal to find a
path through vacancy Nos: 31, 28, and 29
was marked in red pencil on Paper No 24
accepted forward. Against this proposal
there was the strong objection on the
part of the occupant of No 31, who flatly
decided to allow the path to be marked
across his land. A path through Nos: 138,
137 and 136 was likewise objected to by the
occupants thereof.

5. Upon consideration of all the circum-
stances of the case, I came to the conclusion
that, without going into the knotty question
of awarding compensation,
which proceeding would be necessitated by
the proposal to take the path through Nos:
31, 28 and 29 or through Nos: 138, 137 and
136, the path indicated on the village
map through No: 138 was the only one
which Government could sanction being
the Kreyberg shortest path possible and without
imposing upon any private rights. Upon
the whole I was of opinion that
had been in accordance to the Survey; it
had been recognized by that

MM

Department and clearly marked on the map and its area deducted from the holding as Kharab. The occupants had moreover in 1894, agreed in writing to keep the path open for use of man and cattle and were therefore estopped from raising any objections to its use as per Manual.

6. I accordingly directed that the path marked on the Survey map should be hedged in by the villagers so as to prevent the cattle straying from trespassing on and damaging the cultivation on either side. It is this order that is now appealed against.

7. Petitioner Kenya Hanmantgouda is the brother of Sangeevah who has set his hand to the deposition of 14th October 1894. As already observed, the findings made by him in his appeal petition for fixing a path to the forest land either through nos: 31, 28 and 29, or through nos: 38, 37 and 5, Kendurik necessary to acquire land under the

Land Requisition Act but I see no necessity for such a proceeding, as the Nuisance complained of can be abated even if Petitioner has no right to object to use by the village cattle. He has no right to insist that the breadth of the path shall be only 1½ cubits or 2¼ feet and to be confined to mere alone. The Survey Department have described a breadth of 3¼ feet as Khanah and if the present breadth of the path be only 2¼ feet as alleged by Petitioner and Respondents in their depositions dated 7th August 1897 (Papers No 4 & 1) it only proves that there was encroached upon the Khanah and planted on a portion of it.

8. For further reference, I beg to invite attention to the Proclamation Memorandum dealing with the several points touched upon in the petition under report.

9. The recommendations of your official Memorandum under reply, are hereunto

Returned.

I have the honor to be

Sir

Your most obedient Servant

William Rad

Deputy Commissioner

SQ 5-

2R 87-97

1898

No. 809

Name of Petitioner Kempathammegunda

Village Pilattahalli

Taluk ~~Kolar~~ Kunigal

District Tumkur

Date of Arzi 7-10-98

Date of Receipt 10-10-98

Date of Disposal

No. of Enclosure One

ABSTRACT

States that he appeared before Govt: on 3-10-98 as was directed, that on being he was informed that the case was adjourned to 10-10-98, that on his returning to Kunig he is placed under observation as he arrived there from an infected area, that consequently he should to appear before Govt: on 10-10-98 and that he is afraid to

Pte de Barcelone de Plague en
traitement.

Prays for adjournment.

The petitioner also submits, for
perusal, a certificate from
the Hospital apptd in charge of
the Civil Dispensary - Kurnigal.

809

REGN. NO. 809 R.
DATE 17-12-98

No. 20.

Kumyal
7th Oct 1898

Certified that Kumpa Hanumay
Gowda, Patel of Neelathally village
is under observation here from the
5th inst. under Plague Regulation and
is not in a position to go to Bangalore
to attend the Court.

V Chengalvaraya Mudaliar
Civil Surgeon
Incharge Civil Dispensary

+23-5-98 Rec'd
25-2-99 Rec'd

(5)

2 Briefs

Proceedings of the Govt of Mysore

Q 6

LR 87-97

Read:-

Petition No. 785 of 97-98

presented by Kempahanumegowda of Nilathalli, Kunigal Taluk, appealing against the order of the Dy Commr, Tumkur Dt, directing that a mutual path running through S. No. 1 of Kempanagara in the holding of the Petitioner and another House Gauda should be kept open

(2) Letter No. 318 dy 7/7/98 from the Dy Commr, Tumkur Dt, reporting as follows:- Here extracts from the Dy Commr's letter

(3) The records of the case

Order thereon:- No. 5949-56 P.T. 00-98 dy 25.2.99

The Dy Commr's order appealed against is just and proper and is hereby affirmed. The Petitioner may enlarge the pathway in question as per the plan presented during the hearing of the appeal as directed by the Dy Commr.

Draft put up

Draft/pr 21/2/99
Std Lr/Comdd
21/2/99
10693

Fwd to Govt
with draft
order
21/2/99

22/2/99

22/2/99

685

Petitioner stated in para 7 of his petition that he has no other alternative path,

The Dy Commr, Tumkur, Petitioner, Opp Party
Dy Commr's office with records.

(6)

1898-99

GOVERNMENT OF MYSORE

PETITION

PROCEEDINGS

Dated 27th February 1899

5949-56
P. F. 60-98

Rejecting the appeal of Kempahanume gauda of Nilattahalli against the order o the Deputy Commissioner directing that a mamul path running through S. No. 1 in the holding of the petitioner and anothe be kept open.

MGEPB—1-3-99—200

READ —

Petition No. 785 of 1897-98 presented by Kempahanumegauda of Nilattahalli, Kunigal taluk, appealing against the order of the Deputy Commissioner, Tumkur district, directing that a manul path running through Survey No. 1 of Kempasagara, in the holding of the petitioner and another Honnegauda, should be kept open.

(2) Letter No. 31, dated 7th July 1898, from the Deputy Commissioner, Tumkur district, reporting as follows.

(3) The records of the case.

*

"2. Petitioner is the khatadar, along with one patel Honnegauda, of S. No. 1 of Kempasagara agrahara, which measures 9 acres and is assessed at Rs. 7-8-0. The marginal sketch (extract from village map, paper No. 24 in the file), shows the position of this number with reference to gomal lands Nos. 3, 4, 20, 18 and 17 attached to the village. The path from Kempasagara to Hebbalalu runs right across No. 1. It is marked on the village map by a single dotted line. Ten guntas of land are deducted as kharab from the area of No. 1 on account of this path as well as a small *halla* at its north-eastern extremity. The single dotted line denoting paths on survey village maps, is, I understand, assumed by the Survey Department to represent a mean breadth of 8¼ feet.

3. The question of a path for the use of the village cattle, on their way to gomal lands Nos. 3, 4, 20, 18 and 17, has for several years been the subject of dispute between the villagers and the holders of lands through which such path lay. The vernacular records herewith forwarded, will show that so far back as 1887, a complaint was made to the effect that the path through S. No. 139 was obstructed, and it was decided by the Amildar that the path denoted on the survey map should not be interfered with. The question came up again in 1891 and 1894, by which time Nos. 138, 137 and 6, through which the path used to pass, had been taken up on occupancy tenure, owing to which the difficulty of prescribing a path for the use of the village cattle was increased. After discussion with the parties concerned, the Amildar of the day got the occupants of Survey No. 1 (Honnegauda and Sanjiva, petitioner's brother) to agree to allow a path of 9 feet in their land for the village cattle to pass on to the gomal lands. In other words, the path marked on the village map, with the addition of perhaps ¾ths of a foot to its breadth, was to be kept open for public use. The statement of these men was reduced to writing on 14th October 1894 and recorded in paper No. 25—23 on the file. The villagers also agreed to hedge in the said path on both sides so that there might be no interference with the crops raised on the land.

4. This settlement lasted only for a short time, for, in February 1896, the villagers complained that the hedges they had planted, had been removed by the khatadars of No. 1, who, in return, complained that their crops had been destroyed owing to the defective construction of the hedges. A long time elapsed in enquiring into these complaints, and with the change of Amildars in the meantime, the proposals of one party or another were encouraged. At last, in June 1897, the dispute found a place in the Jamabandi Takhrar Takhta, when an alternative proposal to find a path through Survey Nos. 31, 28 and 29, as marked in red pencil on paper No. 24, was put forward. Against this proposal, there was the strong objection on the part of the occupant of No. 31, who flatly declined to allow the path to be marked across his land. A path through Nos. 138, 137 and 6 was likewise objected to by the occupants thereof.

5. On a consideration of all the circumstances of the case, I came to the conclusion that, without going to the length of acquiring land on payment of compensation, which proceeding would be necessitated by the proposal to take the path through Nos. 31, 28 and 29 or through Nos. 138, 137 and 6, the path indicated on the village map through No. 1 was the only one which Government could insist upon being kept open for public use without infringing upon private rights. It was the shortest in point of distance ; it had been in use prior to the survey ; it had been recognized by that Department and clearly marked on the map and its area deducted from the holding as kharab. The occupants had moreover in 1894 agreed in writing to keep this path open for the use of men and cattle and were therefore estopped from raising any objections to its use as per *mamul*.

6. I accordingly directed that the path marked on the survey map should be hedged in by the villagers so as to prevent the cattle using it from trespassing on and damaging the cultivation on either side. It is this order that is now appealed against."

No. 5949-56—P. F. 60-98, DATED BANGALORE, 27TH FEBRUARY 1899.

ORDER THEREON.—The Deputy Commissioner's order appealed against is, for reasons stated in para 5 of his letter quoted above, just and proper and is hereby affirmed. The petitioner has no exclusive right to the pathway in question which has been expressly reserved as such during Survey Settlement and the area deducted as kharab from petitioner's holding No. 1.

C. SREENIVASIENGAR,
Secy. to Govt., Gen. & Rev. Depts.

To—The Deputy Commissioner, Tumkur District, with records,
The Deputy Commissioners of other Districts,

Exd.—H.A.R.

(4)

25-2-99

L.R. 87-97-7

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